

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Adversary 08-01789-brl

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5 In the Matter of:

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7 SECURITIES INVESTOR PROTECTION CORPORATION,

8 Plaintiff

9 v.

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11 BERNARD L. MADOFF INVESTMENT SECURITIES, LLC, et al

12 Defendant

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15 In Re:

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17 BERNARD L. MADOFF INVESTMENT SECURITIES, LLC, et al

18 Debtor

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22 U.S. Bankruptcy Court

23 One Bowling Green

24 New York, New York

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AUGUST 21, 2013

10:06 AM

B E F O R E :

HON BURTON R. LIFLAND

U.S. BANKRUPTCY JUDGE

1 Hearing re: (cc-5396) Trustee's Second Motion to Affirm  
2 Trustee's Determinations Denying Claims of Claimants Who  
3 Invested in Certain Feeder Funds and Did Not Have BLMIS  
4 Accounts in Their Names

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25 Transcribed by: Melissa Looney

1 A P P E A R A N C E S :

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17 BY: CHRISTOPHER H. LaROSA, ESQ.

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P R O C E E D I N G S

THE COURT: Be seated please.

THE CLERK: SIPA v. BLMIS.

MS. BROWN: Good morning, Your Honor.

THE COURT: Good morning.

MS. BROWN: Seanna Brown of Baker Hostetler  
appearing on behalf of Irving Picard, Trustee.

Today is the return date of a motion filed by the  
trustee seeking an order affirming the denial of certain  
customer claims and overruling the related claims objections  
that are set forth on Exhibits 2 and 3 to the declaration of  
David Sheehan that was filed in connection with the  
trustee's motion.

The claimants that are the subject of this motion  
are investors who did not have accounts with BLMIS.  
Instead, these claimants invested directly or indirectly in  
feeder funds that had accounts with BLMIS. As such, these  
claimants are not customers under SIPA and the denial of  
their customer claims should be affirmed.

This motion is virtually identical to a prior  
motion brought by the trustee relating to claimants that  
invested in 16 different feeder funds. That motion was  
granted by this Court in June 2011 and was subsequently  
affirmed by the District Court and the Second Circuit.

The current motion addresses 73 claims and related

1 objections filed by investors that invested in 12 other  
2 feeder funds. These claims are not included in the  
3 trustee's prior motion because he did not have complete  
4 documentation at that time.

5 However, these investors are factually and legally  
6 indistinguishable from those investors that were included in  
7 the trustee's prior motion. The same relief that this Court  
8 previously granted should also be granted here.

9 The sole objection to the trustee's motion should  
10 be overruled. The objection was filed by a claimant who  
11 invested in two feeder funds, Kingate (ph) and Fairfield  
12 Centry (ph) that were the subject of the trustee's first  
13 motion. In fact, the underlying claimant objection were  
14 already resolved by this Court's opinion in June of 2011.

15 The trustee respectfully requests that the motion  
16 be granted for the same reasons set forth in this Court's  
17 prior opinion, as affirmed by the opinions of the District  
18 Court and the Second Circuit.

19 Thank you, Your Honor.

20 THE COURT: Does anyone want to be heard?

21 Well I'm constrained to grant the application. I  
22 do note the opposition by the one party that is resisting  
23 the Debtor's motion. Is Ms. Calgran (ph) here or  
24 represented in any way?

25 Well based upon the papers that are before me, I

1 do overrule the response essentially for the reasons that  
2 were just set forth in that she and the entity that she  
3 represents is actually covered by the prior ruling. It's  
4 not only that it's the law of the case, but all the  
5 rationale and the connection with the prior ruling applies  
6 in full force to her.

7 I note that it was never -- she never appealed the  
8 prior ruling and in the context of the trustee's motion, I  
9 will issue a bench ruling or memorandum which will cover all  
10 of the issues.

11 And I'm cognizant that the only respondent is from  
12 the UK and that she wanted to come here by business class it  
13 would cost her a lot of money. Also she had to be  
14 represented appropriately here that the American Bar  
15 Association's fee charges for that kind of representations  
16 are somewhat disproportionate, but there is a lot at stake  
17 for her. Nevertheless, I will issue a memorandum opinion.

18 MS. BROWN: Thank you, Your Honor. I have a  
19 proposed order. May I approach?

20 THE COURT: Sure. The order will have to be  
21 consistent with the opinion and may be premature.

22 (Proceedings concluded at 10:11 a.m.)  
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RULINGS

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(cc-5396) Trustee's Second Motion 6 21  
to Affirm Trustee's Determinations  
Denying Claims of Claimants Who  
Invested in Certain Feeder Funds and  
Did Not Have BLMIS Accounts in Their Names



C E R T I F I C A T I O N

I, Melissa Looney, certify that the foregoing transcript is  
a true and accurate record of the proceedings.

Melissa  
Looney

Digitally signed by Melissa Looney  
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MELISSA LOONEY

AAERT Certified Electronic Transcriber CET\*\*D - 607

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Date: August 22, 2013